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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,118	08/28/2000	JHEROEN P. DORENBOSCH	PF2054NA	9447
20280	7590	04/29/2004	EXAMINER	
MOTOROLA INC 600 NORTH US HIGHWAY 45 ROOM AS437 LIBERTYVILLE, IL 60048-5343			D AGOSTA, STEPHEN M	
		ART UNIT	PAPER NUMBER	
		2683	//	
DATE MAILED: 04/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/650,118	DORENBOSCH ET AL.
	Examiner Stephen M. D'Agosta	Art Unit 2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-11 and 13-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 3-11 and 13-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 4-21-04 have been fully considered but they are not persuasive:

1. The examiner notes that claim 13 depends from CANCELLED claim 12. This requires correction.
2. In reviewing the claims, the examiner notes that a more favorable outcome may occur if claims 3, 4 and 7 are incorporated into claim 1. This may prove to be a novel idea and set this invention apart from the prior art cited.
3. The applicant argues that Davidson fails to teach communication devices that include a first class of service and a second class of service, providing service to the particular device needing service if the subscriber information indicates that the particular communication device subscribes to the first COS and terminating service to the device needing service if the subscriber information indicates that the particular device subscribes to a second class of service. The examiner disagrees since Davidson teaches a communication system and backup services which supports the main if service goes out and a database subscription for first/second/etc. devices and subscriber information being downloaded based on a particular device needing service while Isayama teaches multiple communication devices and classes of service. As stated by the examiner, Isayama's "class of service" concept is well known as providing service to those with higher priority and hence would only support those users (during an outage) with the higher/highest priorities which, when combined with Davidson, reads on the claim.
4. The applicant argues that Isayama does not teach providing service to a device based on service information. The examiner disagrees since broadly interpreting "class of service" (which is well known) provides for different classes/priorities which may be supported (or cut off) during an emergency (eg. class 1 will be supported but classes 2-3 will not and/or will only be supported if enough bandwidth exists).
5. The prior office action is attached below for informational purposes only.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-11 and 13-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. US 6,408,182 and further in view of Iseyama US 6,192,232 (hereafter Davidson and Iseyama).

Regarding **claim 1**, Davidson teaches a communication system (figure 2) with a main system component [abstract; col.1, lines 44-67; col.2, lines 135] and a backup wireless communication services comprising a main system component (primary MSC) that normally serves all of the plurality of the communication devices and a backup system component [backup MSC] that in response to the main system component going out of service operates to a database including subscription information of the at least one first communication device and the at least one second device,

Obtaining subscription information from the database for a particular communication device needing service (Abstract teaches “subscriber information being downloaded from the HLR to a VLR in the backup MSC” which reads on a database that includes subscription information for a plurality of devices),

Davidson **fails to teach** a plurality of communication devices that include at least one first communication device subscribed to a first class or service and at least one second communication device subscribed to a second class of service and Providing service to the particular device needing service if the subscription information indicates that the particular communication device subscribes to the first class of service

Terminating service to the device needing service if the subscription information indicates that the particular communication device subscribes to a second class of service.

However, Iseyama teaches a plurality of communication devices that include at least one first communication device subscribed to a first class or service and at least one second communication device subscribed to a second class of service [col.1, lines 53-67; col.2, lines 1-15; col.3, lines 11-25]. The combination of Davidson's subscriber information download and Iseyama's classes of service provides for one skilled in the art to determine which class(es) of service would be supported while others have service dropped due to the network failure [ref. Iseyama col.1, lines 44-57; col.3, lines 49-65].

Therefore it would have been obvious to a person of ordinary skill in the art at the time that the invention was made to include the teachings of Davidson with Iseyama in order to efficiently provide a cost-effective uninterrupted backup wireless communication system with a first class service and a second class service.

Regarding **claims 3 and 13**, Davidson teaches a communication system or method wherein the first class of service has a higher service priority relative to the second class of service [col.2, lines 59-66; col.3, lines 20-23].

Regarding **claim 4**, Iseyama teaches a communication system wherein the first class of service [1st base station] corresponds to an emergency service and the second class of service [2nd base station] corresponds to a non-emergency service [abstract; col.3, lines 11-25; col.4, lines 28-43] 11.

Regarding **claims 5 and 14**, Davidson teaches a communication system or method wherein the main system component [primary MSC] is a main base station and the backup system component [alternate MSC] is a backup base station [col.1, lines 4467; col.2, lines 1-35].

Regarding **claims 6 and 15**, Davidson teaches a communication system or method wherein the backup system component has a lower capacity than the main system component [col.3, lines 20-34; col.4, lines 34-50; col.5, lines 24-53]

Regarding **claims 7 and 16**, Davidson teaches a communication system or method wherein the backup system has a higher reliability than the main system component [col.2, lines 19-35; col.4, lines 34-65].

Regarding **claim 8**, Davidson teaches a communication system wherein information about the class of service for each communication device is stored in the system [col.3, lines 20-67; col.4, lines 1-15].

Regarding **claim 9**, Davidson teaches a communication system wherein the at least one communication device informs the system relative to a subscribed class of service [col.3, lines 20-67; col.4, lines 1-15].

Regarding **claim 10**, Davidson teaches a method for providing wireless communication services to a plurality of communication devices comprising normally serving all of the plurality of the communication devices using a main system component [primary MSC and backup MSC] ((Abstract teaches "subscriber information being downloaded from the HLR to a VLR in the backup MSC" which reads on a database that includes subscription information for a plurality of devices), col.1, lines 44-67; col.2, lines 135; col.3, lines 49-65).

Davidson **fails to teach** a plurality of communication devices include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service and Providing service to a particular device by a backup component in response to the main component going out of service, if the subscription information indicates that the particular communication device subscribes to the first class of service

Terminating service to the device in response to the main system component going out of service, if the subscription information indicates that the particular communication device subscribes to a second class of service.

However, Iseyama teaches a plurality of communication devices include at least one first communication device subscribed to a first class of service and at least one

second communication device subscribed to a second class of service [col.1, lines 5367; col.2, lines 1-15; col.3, lines 11-25]. The combination of Davidson's subscriber information download and Iseyama's classes of service provides for one skilled in the art to determine which class(es) of service would be supported while others have service dropped due to the network failure [ref. Iseyama col.1, lines 44-57; col.3, lines 49-65].

Therefore it would have been obvious to a person of ordinary skill in the art at the time that the invention was made to include the teachings of Davidson with Iseyama in order to efficiently provide a cost-effective uninterrupted backup wireless communication system with a first class service and a second class service.

Regarding **claim 11**, Davidson teaches the method wherein the backup system component [backup MSC] only serves the at least one first communication device subscribed to the first class of service, when the main system component [primary MSC] goes out of service [col.1, lines 44-57; col.3, lines 49-65].

Regarding **NEW CLAIMS 17-18**, Davidson teaches claim 1/10 wherein the plurality of communication devices, the at least one first and second devices are mobile communication devices (figure 1 shows a cellular/mobile telephone network and is disclosed in C1, L5 to C2, L36).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta
4-26-04

2P



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